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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/971,997	10/05/2001	Mark V. Goloby	069620.0101	4147

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EXAMINER

JACKSON, ANDRE K

ART UNIT

PAPER NUMBER

2856

DATE MAILED: 06/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/971,997

Applicant(s)

GOLOBY, MARK V.

Examiner

Andre' K. Jackson

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 34-38 is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-12, 14, 17-22, 25-27, 29 and 32 is/are rejected.
- 7) ☒ Claim(s) 8, 9, 13, 15, 16, 23, 24, 28 and 30 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:

Page 8, lines 10 and 11 "holding tank" has two reference numbers
20 and 30.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,3,4,6 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen.

Regarding claim 1, Chen discloses an "Automated chemical drain system" which has a metering reservoir (tank 4), a liquid level sensor (5) and an electronics module (8).

Regarding claim 3, Chen discloses an "Automated chemical drain system" which has a lower set point (52) located at the bottom of the metering reservoir.

Regarding claim 4, Chen discloses an "Automated chemical drain system" which has a float sensor (52-56).

Regarding claim 6, Chen discloses an "Automated chemical drain system" which has an inlet port located at the top of the metering reservoir (Figure 2).

Regarding claim 12, Chen discloses an "Automated chemical drain system" which has a cylindrical metering reservoir.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2,5,7,10,11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Maresca.

Regarding claim 2, Chen discloses an "automated chemical drain system" which has an upper set point (56). This set point is not located at

the top of the metering reservoir but it is clearly within the preview of one of ordinary skill in the art to place the set point at the top of the reservoir to measure the entire volume of the reservoir.

Regarding claim 5, Chen does not disclose a vertical guide where the float is capable of transversing the guide vertically. However, Maresca et al. discloses a "Guage for measuring liquid levels" which shows a vertical guide where the float is capable of transversing the guide vertically (Figure 1A). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Chen to include a vertical guide where the float is capable of transversing the guide vertically as taught by Maresca et al. since the vertical guide provides more stability for the float.

Regarding claim 7, it is clearly within the preview of one of ordinary skill in the art to include an inlet port at the bottom of the metering reservoir.

Regarding claims 10 and 11, Chen discloses an "automated chemical drain system" which does not disclose the volume of the metering reservoir. However, it is clearly within the preview of the skilled artisan to modify the volume of the reservoir without undue experiment.

Regarding claim 14, Chen does not disclose a power supply. However, it is inherent that there is some type of power supplied to the electronics module.

6. Claims 17-19,21,22,25-27 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Ayres, and further in view of Pyzik.

Regarding claim 17, Chen discloses an "Automated chemical drain system" which has a metering reservoir (Figure 2), a control valve (Figure 2), a liquid level sensor (Figure 2) and an electronics module (Figure 2). A tank outlet conduit and a paddlewheel are not disclosed. However, Ayres discloses a "Multiple phase chemical injection system" which has a tank outlet conduit. Therefore, it would have been obvious to one of ordinary skill in the art to modify Chen to include a tank outlet conduit as taught by Ayres since they are from the same field of endeavor. Pyzik discloses a "Paddlewheel flow meter assembly" which has a paddlewheel (32). Therefore, to modify Chen to include a paddlewheel as taught by Pyzik would have been clearly within the preview of one of ordinary skill in the art at the time of invention since paddlewheels are used to measure the flow of fluid.

Regarding claim 18, Chen discloses an "Automated chemical drain system" which has a lower set point (52) located at the bottom of the metering reservoir.

Regarding claim 19, Chen discloses an "Automated chemical drain system" which has a float sensor (52-56).

Regarding claim 21, Chen discloses an "automated chemical drain system" which has an inlet port located at the top of the metering reservoir (Figure 2).

Regarding claim 22, it is clearly within the preview of one of ordinary skill in the art to include an inlet port at the bottom of the metering reservoir.

Regarding claims 25 and 26, Chen discloses an "Automated chemical drain system" which does not disclose the volume of the metering reservoir. However, it is clearly within the preview of the skilled artisan to modify the volume of the reservoir without undue experiment.

Regarding claim 27, Chen discloses an "Automated chemical drain system" which has a cylindrical metering reservoir.

Regarding claim 29, Chen does not disclose a power supply. However, it is inherent that there is some type of power supplied to the electronics module.

7. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Ayres and Pyzik as applied to claims 17-19, 21, 25-27 and 29 above, and further in view of Maresca.

Regarding claim 20, Chen does not disclose a vertical guide where the float is capable of transversing the guide vertically. However, Maresca et al. discloses a "Gauge for measuring liquid levels" which shows a

vertical guide where the float is capable of transversing the guide vertically (Figure 1A). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Chen to include a vertical guide where the float is capable of transversing the guide vertically as taught by Maresca et al. since the vertical guide provides more stability for the float.

8. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Ayres.

Regarding claim 32, Chen discloses an "Automated chemical drain system" which has a metering reservoir (Figure 2), a control valve (Figure 2), a liquid level sensor (Figure 2), a holding tank (44) and an electronics module (Figure 2). What is not disclosed is a tank outlet port. However, Ayres discloses a "Multiple phase chemical injection system" which has a tank outlet conduit. Therefore, it would have been obvious to one of ordinary skill in the art to modify Chen to include a tank outlet conduit as taught by Ayres since they are from the same field of endeavor.

9. Claims 8,9,13,15,16,23,24,28 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
10. Claims 34-38 are allowed.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' K. Jackson whose telephone number is (703) 305-1522. The examiner can normally be reached on Mon.-Fri. 7AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (703) 305-4705. The fax phone numbers for the organization where this application or proceeding is assigned are N/A for regular communications and N/A for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

A.J. *A.J.*
May 20, 2002

Hezron Williams
HEZRON WILLIAMS
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